

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**TIMOTHY WAYNE CARNELISON,
JR.,**

Defendant.

No. 19-mj-2077-DPR

**UNITED STATES' MOTION FOR PRETRIAL DETENTION AND FOR
A HEARING PURSUANT TO 18 U.S.C. § 3142(e) and (f)**

The United States of America, through Timothy A. Garrison, United States Attorney for the Western District of Missouri, and by the undersigned Assistant United States Attorney requests pretrial detention and a detention hearing pursuant to 18 U.S.C. §§ 3142 (e)(3)(E), (f)(1)(A), (f)(2)(A), and (f)(2)(B). At this hearing, the evidence will demonstrate that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required by the Court and the safety of other persons and the community.

Supporting Suggestions

1. Title 18, United States Code, Section 3142(f)(1)(A) provides that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community if the attorney for the Government moves for such a hearing and if the case is one that involves an offense involving a minor or a crime of violence as defined in 18 U.S.C. § 3156(a)(4)(C), which includes the offenses of receipt and distribution of child pornography, in violation of 18 U.S.C. § 2252(a)(2). 18 U.S.C. § 3142(E)(3)(E) and (f)(1)(A).

2. The statute recognizes two additional situations which allow for a detention hearing and which can be raised either by the attorney for the Government or by a judicial officer. These conditions are:
 - a. When there is a serious risk that the defendant will flee; or,
 - b. When there is a serious risk that the person will "obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror." 18 U.S.C. § 3142(f)(2)(A) and (B).
3. One or more grounds for pretrial detention and a pretrial detention hearing as set forth by the statute exists in the above cause, to wit: this matter involves the receipt and distribution of child pornography. Further, there is a serious risk that the defendant's release will present a substantial risk to the community.
4. The crimes alleged in the Complaint requires the Court to consider a rebuttable presumption that no condition or combination of conditions set forth in 18 U.S.C. § 3142(c) will reasonably assure the appearance of the defendant as required and the safety of other persons and the community. 18 U.S.C. § 3142(e)(3)(E).
5. Moreover, the nature and circumstances of the charged offense, the weight of the evidence, the defendant's history and characteristics, and the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release, each demonstrate that there is no condition or combination of conditions set forth in 18 U.S.C. § 3142(c) that will reasonably assure the appearance of the defendant as required and the safety of other persons and the community.

6. The Government is aware of the following evidence:
- a. In relation to the nature and circumstances of the offense charged, on September 25, 2019, a complaint was filed charging the defendant with receipt and distribution of child pornography.
 - b. In relation to the weight of the evidence supporting the charge in the Complaint, this case came to the attention of law enforcement after Google initiated a CyberTip with the National Center for Missing and Exploited Children (NCMEC) after locating files containing suspected child pornography stored within a user's Google Photo application. Based upon the investigation by Homeland Security Investigations (HSI) and Southwest Missouri Cyber Crimes Task Force (SMCCTF) Officer Brian Martin, the defendant was identified as the suspect in the CyberTip. On September 24, 2019, TFO Martin and other members of the SMCCTF executed the search warrant at the defendant's residence. Post-*Miranda*, Cernelison admitted he had been downloading images and videos of child pornography. SMCCTF Computer Forensic Analyst (CFA) Michael Costello conducted a forensic preview of the defendant's Samsung cellular phone and located images of child pornography, that is, children less than 18 years of age engaged in sexually explicit activity.
 - c. In relation to the history and characteristics of the defendant, the defendant is a convicted sex offender. On April 3, 2008, the defendant was convicted of two counts of Statutory Sodomy in the First Degree and one count of Child molestation, in the Circuit Court of Taney County, Missouri, case number 06N9-CR00922-01.

WHEREFORE, the United States requests a pretrial detention hearing and that Defendant be detained pending trial.

Respectfully submitted,

Timothy A. Garrison
United States Attorney

By /s/ Ami Harshad Miller
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on September 27, 2019, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/s/ Ami Harshad Miller
Ami Harshad Miller
Assistant United States Attorney